

### **REMARKS**

By the present amendment, claims 1, 16 and 20 are amended to more clearly set forth Applicant's invention. The claims pending in this application are claims 1-3 and claims 5-20. Reconsideration and favorable action are respectfully requested.

### **Claim Objections**

Claim 16 was objected to by the Examiner because of an informality: "comprised fluoropolymer flakes" should be "comprised of fluoropolymer flakes". To overcome this objection, Applicant has appropriately amended claim 16. Claim 20 has also been amended to correct the same informality.

### **Claim Rejections - 35 USC §102**

The Examiner rejected claims 1, 3, 11, 13, 15 and 18 under 35 USC §102(b) as being anticipated by USPN 5,536,530 to Landers et al. The Examiner takes the position that Landers et al. teaches a textured laminate comprising a substrate, wear layer 18 (fluoropolymer film adhered to substrate), and particles or polymer chips 14 (discontinuous layer of fluoropolymer flakes) all of polyvinyl fluoride for floor or wall coverings. The Examiner cites col. 3, lines 24-41 and col. 4, lines 27-35 and Figure 1 of Landers et al. With regard to slip resistance called for in claim 3, the Examiner takes the position that it is an inherent property and that claiming a new use, new function or unknown property which is inherent in the prior art does not necessarily make the claim patentable.

### **Applicant's Response to Claim Rejections - 35 USC §102**

Applicant's claim 1 has been amended for clarification: "said fluoropolymer flakes being pressed onto or partially embedded in said preformed fluoropolymer film". Support for this amendment is found in the specification on page 9, lines 8-10. This wording now clearly distinguishes over Landers which has a very different structure. In Landers, the chips 14, which the Examiner compares to Applicant's discontinuous top layer, are "completely embedded" in the wear layer 18. See Landers col. 2, lines 41-49; claim 1, step (f), last 3 lines ("chips and recesses being covered substantially uniformly"); and Figure 1. In contrast, Applicant's fluoropolymer flakes of the discontinuous top layer are pressed onto or partially embedded in the preformed film and there is no polymer covering the chips as in Landers.

Accordingly, Applicant's amended claim 1, as well as dependent claims 3, 11, 13 and 15 distinguish over Landers. Claim 18 is dependent upon claim 16 and claim 16 has been amended to include the same amended wording as claim 1. Therefore, claim 18 also distinguishes over Landers. Applicant submits that the rejection of claims 1, 3, 11, 13, 15 and 18 as being anticipated by Landers under 35 USC §102 should be withdrawn.

### **Claim Rejections - 35 USC §103**

The Examiner rejected claims 2, 5, 12, 14, 16, 17, 19 and 20 under 35 USC §103(a) as being unpatentable over USPN 5,536,530 Landers et al. in view of USPN 6,336,988 to Enlow et al. While admitting that Landers does not teach different colors in a film or flake as in Applicant's claim 2, 5 and 16, the Examiner takes the position that Enlow teaches applying polyvinylidene fluoride to a clear coat (transparent) in a first layer and a color coat in second layer that contains pellets and pigments such titanium dioxide (one color) and mixed metal pigments (a second color ) in an extruder citing col. 14, lines 1-3 and 20-45 of Enlow. Citing col. 30, lines 23-40, the Examiner says that Enlow teaches the use of PVF or PVDF to produce wood grain print coats and which the examiner says are equivalent to a speckled and textured pattern of claims 2, 16, 17 and 20 as the same materials are provided by the prior art. With respect to dependent claim 14 which is directed to the panel of claim 1 using films of preferred fluoropolymers and blends of fluoropolymers with nonfluoropolymers, the Examiner says that it would have been obvious to one of ordinary skill in the art to use fluoropolymer alone because they [presumably the Examiner is referring to blends] are known equivalents. Concerning the thickness stated in dependent claims 12 and 19, the Examiner states that discovering an optimum value of a result effective variable involves only routine skill in the art.

The Examiner rejected claims 6-10 under 35 USC §103(a) as being unpatentable over USPN 5,536,530 Landers et al. in view of USPN 6,336,988 to Enlow et al. and further in view of USPN 5,657,603 to Goodhart et al. The Examiner relies on Landers as in the other rejections but indicates that Landers does not teach the metals and metal coated substrates of claims 6-10. The Examiner takes the position that Goodhart teaches preparing sheet metal and fabricating roofing shingles. The Examiner says that Goodhart provides motivation for utilizing metal or alloy coated substrates with fluoropolymer coatings, citing col. 9, lines 45 – 55. The Examiner further states that the metal sheets include steel, aluminum, and a coating of zinc aluminum alloy, citing col. 9, lines 53-65 and col. 10, lines 10-15. The Examiner further states that it would have been obvious to one of ordinary skill in the art to employ the metal or metal coated substrates of claims 6-10 to the sheeting of Landers because Goodhart teaches that using metal and metal coated substrates are conventional for use for

fluoropolymer coatings, using metal coated substrates to aid in corrosion protection and longer life, citing col. 10, lines 60-68 and using metal substrates for economy, impact resistance and long service at col.9, lines 34-45.

**Applicant's Response to Claim Rejections - 35 USC §103**

Applicant respectfully traverses the rejection of claims 2, 5, 12, 14 16, 17, 19 and 20 under 35 USC §103(a) as being unpatentable over USPN 5,536,530 Landers et al. in view of USPN 6,336,988 to Enlow et al. Claims 2, 5, 12, and 14 are directly or indirectly dependent upon amended claim 1 which clearly distinguishes over Landers as discussed above. Independent claims 16 and 20 have been amended to include the same wording as amended claim 1 and claims 17 and 19 are dependent upon claim 16. There is no teaching or suggestion in Landers which would lead one of ordinary skill in the art to this limitation, i.e., "said fluoropolymer flakes being pressed onto or partially embedded in said preformed fluoropolymer film". Landers teaches that the chips 14 are "completely embedded" in the polymeric layer 18. Landers structure with completely embedded chips is distinctly different from Applicant's invention in which a discontinuous top layer is comprised of fluoropolymer flakes pressed onto or partially embedded in the preformed fluoropolymer film. Since Landers chips are embedded, the Landers polymeric layer must be clear for the chip to produce a visual effect. Applicant's invention is not so limited. For example, as set forth in claim 2, Applicant's base layer can be either a first color or clear with the fluoropolymer flakes being a second color to produce a decorative, textured surface with a speckled pattern. Landers' teaching of completely embedded chips in a clear polymer layer would not teach or provide any motivation or incentive to one skilled in the art to use fluoropolymer flakes of a second color pressed onto or partially embedded in the preformed clear or first color fluoropolymer film to provide a decorative, textured surface with a speckled pattern as called for in claim 2.

The Examiner takes the position that it would have been obvious to one of ordinary skill in the art to modify the laminate of Landers with color via pigments because Enlow teaches a method of applying pigment to fluoropolymer materials. However, Enlow does not teach or suggest the application of fluoropolymer flakes to a preformed fluoropolymer film and clearly does not teach or suggest fluoropolymer flakes pressed onto or partially embedded in the preformed fluoropolymer film. Enlow's disclosure is limited to extrusion coatings. Furthermore, being limited to extrusion coatings, there is nothing in Enlow which would teach or provide incentive to one of ordinary skill in the art to depart from Landers' teaching of completely embedded chips. Accordingly, Applicant's claims invention is not obvious in view of Landers in view of Enlow.

Claims 5 is dependent upon amended claim 1 and calls for multiple fluoropolymer flakes each having a different color which is also not taught or suggested by Landers in view

of Enlow. Claims 12 and 14 are directed to preferred forms of the invention which are also not taught or suggested by Landers in view of Enlow.

Claim 16 is an independent claim directed to decorative sheeting for surfacing architectural panels and, as noted above, has been amended to include the same wording as amended claim 1. Applicant submits that claim 16 is not taught or suggested by Landers in view of Enlow. Claims 17 and 19 are dependent upon claim 16 and are directed to preferred forms of the invention which Applicant submits are also not taught or suggested by Landers in view of Enlow. Claim 20 is an independent claim also directed to decorative sheeting for surfacing architectural panels. As noted above, claim 20 has been amended to include the same wording as amended claim 1. Applicant submits that claim 20 is also not taught or suggested by Landers in view of Enlow.

Applicant submits that the rejection of claims 2, 5, 12, 14, 16, 17, 19 and 20 under 35 USC §103(a) as being unpatentable over USPN 5,536,530 Landers et al. in view of USPN 6,336,988 to Enlow et al. should be withdrawn.

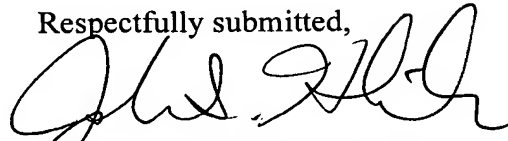
Applicant also respectfully traverses the rejection of claims 6-10 under 35 USC §103(a) as being unpatentable over USPN 5,536,530 Landers et al. in view of USPN 6,336,988 to Enlow et al. and further in view of USPN 5,657,603 to Goodhart et al. Goodhart discloses sheet metal shingle structures which, as disclosed in column 9, line 64-65, and column 10, line 50-57, may have color pigmentation in the form of paint or thermosetting plastic films. However, Goodhart's disclosure is limited to coatings which are applied as liquids and there is no teaching whatsoever of the use of preformed fluoropolymers films and clearly no disclosure of fluoropolymer flakes. Accordingly, Goodhart does not teach or suggest the invention of claims 6-10 which are directly or indirectly dependent upon claim 1. Claim 1, as discussed above, has been amended to call for fluoropolymer flakes pressed onto or partially embedded in the preformed fluoropolymer film. Adding Goodhart to the teachings of Landers and Enlow still does not lead on of ordinary skill in the art to Applicant's invention.

Applicant submits that the rejection of claims 6-10 under 35 USC §103(a) as being unpatentable over USPN 5,536,530 Landers et al. in view of USPN 6,336,988 to Enlow et al. and further in view of USPN 5,657,603 to Goodhart et al. should be withdrawn.

A Petition for a one-month extension of time is enclosed.

In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John S. Hendrickson", written over the typed name.

**JOHN S. HENDRICKSON**  
ATTORNEY FOR APPLICANT

Registration No.: 30,847  
Telephone: (302) 892-7249  
Facsimile: (302) 992-2533

Dated: July 22, 2004